

Notice of Allowability

Application No.

09/518,931

Examiner

Eileen B. O'Hara

Applicant(s)

GENTZ ET AL.

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 25 April 2006.
2. ☒ The allowed claim(s) is/are 24-38, 40-46, 51-61, 66-68 and 70-88.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date 4/25/06
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),
Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


EILEEN B. O'HARA
PRIMARY EXAMINER

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EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Michelle Shannon on July 5, 2006.

The application has been amended as follows:

Replace claim 35 with the following claim:

35. An isolated polypeptide comprising an amino acid sequence selected from the group consisting of:

(a) the amino acid sequence of the full-length polypeptide encoded by the cDNA clone contained in ATCC Deposit No. 97810;

(b) the amino acid sequence of the full-length polypeptide excluding the N-terminal methionine residue encoded by the cDNA clone contained in ATCC Deposit No. 97810; and

(c) the amino acid sequence of the mature polypeptide encoded by the cDNA clone contained in ATCC Deposit No. 97810.

Cancel claim 39.

Claim 40, replace "39" with – 38 – .

Claim 42, replace "39" with – 38 – .

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Claim 43, replace “39” with – 38 – .

Claim 44, replace “39” with – 38 – .

Claim 55, replace “50” with – 54 – .

Claim 57, replace “50” with – 54 – .

Claim 58, replace “50” with – 54 – .

Claim 59, replace “50” with – 54 – .

Replace claim 61 with the following claim:

61. An isolated polypeptide comprising an amino acid sequence 95% or more identical to an amino acid sequence selected from the group consisting of:

(a) the amino acid sequence of the full-length polypeptide encoded by the cDNA clone contained in ATCC Deposit No. 97810;

(b) the amino acid sequence of the full-length polypeptide excluding the N-terminal methionine residue encoded by the cDNA clone contained in ATCC Deposit No. 97810; and

(c) the amino acid sequence of the mature polypeptide encoded by the cDNA clone contained in ATCC Deposit No. 97810;

wherein said polypeptide binds Fas ligand.

Cancel claim 69.

Claim 70, replace “65” with – 68 – .

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Claim 72, replace “65” with – 68 – .

Claim 73, replace “65” with – 68 – .

Claim 74, replace “65” with – 68 – .

The following is an examiner’s statement of reasons for allowance: Applicants have demonstrated that at least five of the disclosed utilities for the polypeptide of SEQ ID NO: 2 can be used to satisfy the utility requirement of 35 U.S.C. § 101 that were disclosed in provisional application 60/035,496, filed January 14, 1997. The provisional teaches that HIV-induced apoptosis can be treated with an antagonist of the invention (paragraph bridging pages 55-56), and that an antagonist can be a soluble form of the receptor (page 54, lines 28-30). Badley et al., submitted in the response filed April 25, 1996, demonstrates that FasL mediates HIV-induced apoptosis, and that an antagonist to FasL abrogates the HIV-infected macrophage-dependent death of T lymphocytes. Zhang et al., provided in the IDS filed Nov. 20, 2001, teaches that the receptor binds to FasL. Page 7 of provisional application 60/035,496 also teaches that graft versus host disease, autoimmune disease and infectious disease can be treated with the polypeptides. Zhang et al. demonstrates that the soluble receptor can be used to treat graft versus host disease, Sung et al. provided in the IDS filed April 25, 2006, teaches that transgenic expression of the receptor protects islets from spontaneous and chemical-induced autoimmune destruction in nonobese diabetic mice, and Matute-Bellow et al. teaches that administration of the protein of the instant invention improves clearance of bacteria from the lungs in mice with pneumococcal pneumonia. Therefore, the present application is entitled to receive the benefits

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of priority under 35 U.S.C. §§ 120 or 119(e) with respect to the 09/006,352 and 60/035,496 applications and that the present application is accorded an effective filing date of January 14, 1997.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Renumbering of Claims

Claims 24-38, 40-46, 51-61, 66-68, 70-77, 80, 78, 81, 79 and 82-88, have been renumbered as 1-55, respectively.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Eileen B. O'Hara, whose telephone number is (571) 272-0878. The examiner can normally be reached on Monday through Friday from 10:00 AM to 6:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Gary Nichol can be reached at (571) 272-0835.

The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

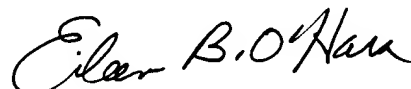
Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-1600.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://portal.uspto.gov/external/portal/pair>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll free).

Eileen B. O'Hara, Ph.D.

Patent Examiner


EILEEN B. O'HARA
PRIMARY EXAMINER